LECs has traditionally been left to the states. The Federal Communications Act applies generally to interstate and foreign communications, as opposed to intrastate communications. See 47 USC 152 and 47 USC 221(a). Since EAS is an intrastate interexchange service, the federal government does not have as much interest in regulating arrangements associated with EAS as it does regarding other services. The thrust of the new interconnection provisions is to address new arrangements with competing carriers--not existing arrangements between adjacent non-competing LECs.

Similarly, jointly provided interexchange access services are beyond the scope of this proceeding. They are not relevant to competitive basic local exchange interconnection and this section of the Act was not directed toward those arrangements. If there is a need to address toll access interconnection agreements, those agreements are best addressed in a separate toll access restructuring docket. This local interconnection rulemaking docket should not be a bucket into which numerous miscellaneous issues are tossed.

2. Interconnection, Collocation, And Unbundled Elements.

a. Interconnection.

Paragraphs 50 and 51 seek comment regarding whether there should be uniform rules or allowable variation among the states with regard to interconnection arrangements. Not only are there different circumstances among the states that demand different treatment, but also there are vast differences between urban and rural LECs within each state that demand that each state maintain flexibility regarding interconnection arrangements. The networks of the huge multi-national corporations that are entering the local exchange market and the RBOCs are vastly different than the networks or rural telephone companies. For example, Winn Telephone Company in rural Winn, Michigan, has one exchange, approximately 650 access lines, and five employees. Another example is Hiawatha Telephone Company located in Michigan's upper peninsula that has nine exchanges and under 6000 access lines, but traverses hundreds of miles of rural forested areas that are subject to harsh climatic conditions. What is suitable for Ameritech or AT&T as a local carrier in Grand Rapids or Detroit is not necessarily best for a rural LEC like Hiawatha with less than 6000 access lines and a service area of approximately 2400 square miles. Hiawatha Telephone Company

is a prime example of a rural LEC with differing technologic, geographic and demographic conditions than the RBOCs. Hiawatha's service area has a subscriber density of 2.2 per square mile and has 6.8 customers per route mile of cable. Eight of Hiawatha's nine exchanges serve an average of less than 300 customers per exchange. Hiawatha's three school districts cover over 900 square miles and have a student density of less than 1/3 student per square mile. The nearest alternative school sites are anywhere from 45 to 75 miles distant. Companies like Hiawatha clearly should be treated differently than the large urban RBOCs serving dense metropolitan areas.

In **paragraph 52**, one of the issues mentioned is whether two-way trunking and combined trunking arrangements should be permissible. Mandatory combined trunking should not be required because (1) the current industry practice is to segregate traffic into separate local, toll, and EAS trunk groups, (2) there is a risk of arbitrage because of the incentive to misreport the jurisdiction of the usage as long as rates are tied to a particular jurisdiction and the reporting of the jurisdiction of the usage is the responsibility of the originating carrier, and (3) there is no cost information to prove that combined jurisdictional traffic on single trunk groups would be significantly more efficient than the current practice.

(1) Technically Feasible Points Of Interconnection.

In **paragraphs 56 through 59**, the Commission requests comment on technically feasible points of interconnection. A similar issue arises in paragraph 87. The main issue in this regard is who has the burden of proof regarding technical feasibility. If the parties cannot agree, the burden should be on the requesting carrier to show that it is technically feasible and that it will not have an adverse economic impact on the connecting carrier. Any other system would allow a competitor to "hold a gun to the head" of the incumbent and to demand any point of interconnection despite the economic consequences to the incumbent. A system leading to harassment of the incumbent should not be allowed. This would be exasperated when large internationals like AT&T and MCI demand new points of interconnection with small rural LECs as they are advocating with their "building block" approach.

Paragraph 57 contains a tentative conclusion that any current interconnection point is technically feasible. MECA disagrees. First, most of the examples cited by the FCC are toll access interconnections that, while they are technically feasible for toll access for all carriers, may not be appropriate for local access. The incumbent LECs in Michigan do not currently interconnect to provide

basic local exchange service in each other's service territory and there is no example from their interconnection that can be used for local competition. Second, there are huge differences in technology between many large and small LECs. The FCC must be very cautious in concluding that the equipment of one LEC is "similar" to that of another. They may be equivalent in providing a network function, but the underlying technology may vastly differ and so would necessitate different interconnection engineering or points.

(2) Just, Reasonable, And Non-discriminatory Interconnection.

Paragraphs 60 through 62 request comment regarding how to determine whether the terms and conditions for interconnection arrangements are just, reasonable and non-discriminatory, and whether state models might be appropriate. The FCC should avoid national standards on this issue. If any standard is to be adopted, that standard should state that small LECs should be treated differently from large LECs. The best policy, however, is to leave it to the parties to negotiate their own terms and conditions as the State of Michigan has mandated.

(3) Interconnection That Is Equal In Quality.

No comment.

(4) Relationship Between Interconnection And Other Obligations Under The 1996 Act.

In **paragraph 64**, the Commission tentatively concludes that it has the authority to require, in addition to physical collocation, virtual collocation and meet point interconnection arrangements, as well as any other reasonable method of interconnection. MECA agrees that physical collocation is the only required type of interconnection, but the incumbent LEC can insist on virtual collocation if physical collocation is not practical for technical reasons or because of space limitations.

Options other than physical collocation are especially important to small LECs who often times have very small physical facilities. For example, Kaleva Telephone Company in Kaleva, Michigan, has an office that is approximately 30 x 80 feet. It houses the central office switch, the customer service office, space for the engineers to work, and desks for upper management, among other facilities. There is simply no physical room left in this office for collocation equipment. If there are to be federal standards on this issue, those standards should provide that other methods are options for interconnection that

can be negotiated by the parties. Michigan has already determined that physical collocation is not practical and has required virtual collocation with an option to negotiate interconnection on other terms and conditions. See Section 356 of the Michigan Telecommunications Act, MCL 484.2356.

b. Collocation.

As discussed regarding **paragraph 64**, issues regarding collocation should be left to the states, who can determine what is best for small LECs with limited space and unique networks.

c. Unbundled Network Elements.

In **paragraph 74 through 82**, the Commission seeks comment on the minimum set of unbundled network elements and the role of the states in this regard. MECA believes that the Michigan model is appropriate in the regard. The Michigan Telecommunications Act requires unbundled services and points of interconnection to include at a minimum the loop and the switch port. See MCL 484.2355. This requirement has been sufficient in Michigan and has spurred significant competitive activity. There is no need to mandate further unbundling beyond these two components. The affected parties can negotiate if they desire any further unbundling.

In **paragraph 79**, the Commission seeks comments on whether it should establish minimum requirements regarding unbundling that could include, for example, provisioning and service intervals, non-discrimination safeguards, and technical standards. There is no need for national standards regarding customer service since these fall within the traditional state prerogative and the states are in a better position to consider the practical issues that arise between two interconnecting carriers and enforce them.

(1) Network Elements.

In **paragraph 83**, the Commission asks what constitutes a single network element and whether network elements can be subdivided.

A local loop is a single network element and, at least for small LECs, network elements should not be subdivided. Under the Michigan Act, a "loop" is defined as "the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office." MCL 484.2102(s). A loop is no longer simply a "twisted pair," but the technology of the local loop spans a broad range. The technology of a local loop is much different in a rural Michigan telephone company with 500 or 2000 access lines than it is in a metropolitan area such as Detroit or New York City. If there is

to be further unbundling in rural Michigan, the Michigan Public Service Commission should be the entity that considers the specific circumstances of the LEC and makes the determination.

Switching should be a single unbundled element called a port. Under the Michigan Act, a "port" is defined as, except for the loop, "the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carrierS." MCL 484.2102(x). MECA believes that the proper model for unbundling switching functionality should be the "port." Though technically a port is the physical connection between the loop and switch, in practice, when a competitor buys a port, it obtains connection with the incumbent's basic switching functions. The port provides connectivity with telephone lines and numbers, line-to-line switching capability, line to trunk switching capability and inter-local switching capability. By allowing a competitor connectivity with the incumbent's switch via the port, the competitor is able to provide the package of vertical services it wishes to market to end users. Vertical services should not be considered as part of the port's functionality; they are not network elements, but retail serviceS which can be resold wholesale.

This definition of port serves the public interest and is consistent with the Federal Law. It will allow competitors to package the incumbent's switching with their own facilities.

The Commission should reject any definition of switching that would define it in terms of capacity whether that be in terms of switch processor capacity, trunk terminations, line side terminations, or intra-switch transport or usage. A definition of switching that relies on capacity is not meaningful because each of the aforementioned variables is interdependent with all the others. The measure of switching capacity is continually affected by the use of the other variables. Thus such a definition of switching be rejected.

In **paragraph 84**, the Commission seeks comment regarding "network elements" and the distinction between the facility or equipment used in the provision of a telecommunications service, and the service itself. This inquiry has implications regarding existing toll access by seeking a determination of whether the purchase of access to such an element entitles or obligates the requesting carrier to provide the customer with all services that use the element.

In Michigan where there is ongoing local service competition, whoever purchases an unbundled loop essentially gains control of that facility and uses it to

provide both local service and toll service or toll access service. The primary reason that local service competitors seek to obtain unbundled loops is to obtain the toll or access revenues associated with those loops. Thus, the competitive providers always insist that they do not need to remit toll access to the incumbent LEC once they acquire a loop.

If the incumbent LEC does not retain the toll access revenue, this must be because the loop essentially belongs to the competitor. If so, then the competitor must provide both local and toll service (or toll access). Competitors should not have the option of choosing an unbundled element to provide toll or toll access alone. This would be inherently inconsistent with the concept of purchasing unbundled elements in that only one provider can have control of a particular element (e.g. the loop) at any given time.

An element is something that is used by a carrier to provide a telecommunications service; it is not a service. While an element may have functionalities inherent in it and its use, those functionalities cannot be separated from the element and sold without it.

The FCC's policy should be that if a carrier wants to only provide toll service alone, it should purchase toll access service from the LEC. A long distance

carrier should not be allowed to simply substitute unbundled local elements in place of toll access service in order to only provide its primary line of business (toll service). If an end user chooses to retain the LEC as its local service provider, the LEC must be allowed to retain ownership and control of its own loop. A long distance carrier must not be allowed to arbitrage the LEC's service offerings by being allowed to purchase unbundled local service elements to provide only long distance service.

Paragraph 85 requests comments regarding the relation of resale to unbundling. Resale and unbundling are two distinct ways of providing service and should be treated differently. Through unbundling, a competitor acquires the use of portions of the network to supplement its own network in order to provide local service to an end user. Through resale the incumbent LEC retains control over the facilities, but allows another provider to brand the service as its own. Thus, there are two different ways for a competitor to provide service to end users and the methods should not be treated as if they were the same thing. Resale is used by non-incumbents to reach customers who they choose not to reach directly by building out their own facilities or through the acquisition of unbundled facilities of the incumbent.

(2) Access To Network Elements.

In **paragraph 86**, the Commission seeks comment regarding whether there should be separate charges for each unbundled element. MECA agrees that there should be a separate charge for each purchased network element and the cost of each should be based on each particular carrier's costs.

In **paragraph 87**, the Commission asks parties to identify and describe each network element for which they believe access on an unbundled basis is technically feasible at this time. MECA takes the position that: (1) this question inappropriately intermixes the two concepts "element" and "point," which inadvertently leads to the wrong directive by implying that the Congressional intent was to require expansive unbundling and (2) small LECs should not be required to unbundle beyond the loop and port.

The Commission's question about technically feasible unbundled elements is misguided since there is a difference between "points" and "elements." The law does not require access to any technically feasible element; rather, once the elements are determined, such as the loop and port, access to those elements is to be at any technically feasible point where physical interconnection of the competitor's facilities to those elements is possible. Section 251(c)(3) mandates

that incumbent LECs provide access to network elements on an unbundled basis "at any technical feasible point." If Congress had intended a different duty it could easily have chosen language requiring access "to any technically feasible element" [i.e. a building block]. A proper reading of this section shows that it was intended to allow some discretion to competitive providers to choose "any" technically feasible point to interconnect to acquire a loop or a port, but also shows that it was intended to protect incumbent LECs by providing that access be only at "technically feasible" points. The law does not contain a Congressional mandate to break the network down into the smallest "building blocks" possible. Rather, the mandate is to allow interconnection at feasible points to the elements that are chosen to be unbundled for local service.

When considering issues regarding the "technical feasibility" of points in the network where competing providers can interconnect for the loop and port (and any other unbundled element), economic considerations should play a major role in addition to network reliability concerns. Many things may be technically possible from an engineering perspective while at the same time being administratively and economically unworkable. The position that "if it is physically possible it should be permitted" results in the logical absurdity of allowing the

splicing open of the drop and interconnecting before the protector. A determination of "technical feasibility" therefore logically must involve consideration of economic burdens and network safety and reliability.

With regard to the particular elements, there should not be a requirement that all LECs unbundle to the same degree. Small LECs should not automatically be required to unbundle to the same level as the large carriers.

Small rural LECs have no need to unbundle their local networks beyond loops and ports. No additional benefits to competition have been demonstrated by further unbundling and the high cost of doing additional cost studies outweighs any potential benefits in small LEC service areas. The cost of performing studies is very expensive. The best test that the benefits of unbundling exceed the cost of additional studies is to require the requesting party to pay the costs of the study. This is especially true in the case of the small LECs.

Further, claims by the potential competitors that additional unbundling is necessary to prevent the incumbent LEC from exercising monopoly power are unfounded regarding small LECs. It is ludicrous to suggest that an 800 access line

company can exert monopoly control over AT&T, MCI, or MFS. It should be the requesting carrier's burden of proof to demonstrate that there are clear benefits to competition by further unbundling.

In any event, further unbundling should be an option that is, in the first instance, subject to negotiation. When an incumbent LEC receives a request, the matter should be negotiated between the requesting party and the LEC. Once the matter is resolved, all other competing providers would be allowed to purchase the newly unbundled network component. Should the competing provider and the incumbent LEC not be able to reach a mutually agreed upon solution, the issues that cannot be negotiated or agreed upon would be presented to the state commission for resolution.

Paragraph 89 requests comment regarding minimum requirements governing terms and conditions that would apply to the provision of all network elements. MECA reminds the Commission that terms and conditions have traditionally been left to the states. At most, MECA encourages the Commission to adopt very minimum standards that take into account the fact that small LECs have few employees and serve proportionally larger areas than the RBOCs do per employee. Regarding the Commission's question of whether electronic ordering

interfaces might reduce the time and resources required for new entrants to compete, this suggestion should be rejected at this time. There should not be direct on-line access to data bases for the reasons mentioned by MECA in response to paragraphs 92 through 116.

In **paragraph 91**, the Commission seeks comment on the minimum requirements, if any, that the Commission should adopt to ensure that LECs do not discriminate among requesting carriers. The Commission should not adopt any further requirements in this regard. The issue of discrimination is an issue that is best left to the complaint process and should be resolved by states commissions on a case-by-case basis.

(3) Specific Unbundling Proposals.

In **paragraphs 92 through 116**, the Commission requests comments regarding specific unbundling proposals and asks the parties to address four categories of elements: loops, switches, transport facilities, and signaling and data bases. As discussed above, the only two basic elements that should be required as unbundled elements are local loops and ports. As is proven by Michigan's experience, these two elements are all that is necessary for a competitor to provide service and they spur many new entrants to petition for local entry. Therefore,

these two elements are sufficient to meet the federal statutory standard. See Section 251(d)(2)(B). Also, no additional benefits to competition have been demonstrated by further unbundling and the high cost of doing additional cost studies to price these service elements outweighs any potential benefits in small LEC service areas.

With regard to local transport and special access (paragraphs 104 through 106), these facilities are toll access facilities and are not necessary for effective interconnection to provide competitive basic local exchange service. The reference to a competitive check list should only apply to the RBOCs and their interLATA services. Any requirements regarding local transport and special access should not apply to any LEC that was not under the MFJ restrictions, i.e. the small rural LECs. The current access charge structure should remain in place for those LECs. In addition, arbitrage would be a problem in the absence of local rate restructuring that brings local rates in line with their costs. Any modifications to local transport and special access must wait until the LECs have restructured their local rates.

With regard to databases, though they may be unbundled, this does not mean that there should be direct on-line access to them. New entrants can

effectively compete by obtaining database services from the incumbent in a manner that does not compromise security and proprietary information and in a manner that does not require the incumbent to brand its services as those of the competitor. Without more advanced software incumbent LEC customer records and data cannot be accessed on-line.

d. Pricing Of Interconnection, Collocation And Unbundled Network Elements.

The Commission next addresses the pricing of interconnection collocation and unbundled network elements. When considering pricing, it is important to note that the small rural LECs, unlike the large RBOCs, have very limited revenue sources. The small LECs depend mainly on basic local exchange service revenue and toll access revenue. They do not provide toll service or the broad range of enhanced services that are provided by the RBOCs and the large urban providers. It is therefore very important to have a different pricing scheme for urban LECs and for rural LECs.

(1) Commission's Authority To Set Pricing Principles.

In **paragraph 117** the Commission tentatively concludes that statutory language establishes the Commission's authority under Section 251(d) to adopt

pricing rules to ensure that rates for interconnection, unbundled network elements, and collocation are just, reasonable, and non-discriminatory. The Commission also tentatively concludes that it has authority to define what are "wholesale rates" and what is meant by "reciprocal compensation arrangements" for transport and termination of telecommunications. Regardless of whether or not the Commission has this authority, the Commission should forebear from establishing broad national rules. Sections 251 and 252 of the Act must be read in conjunction with Section 2(b), 47 USC 152(b), and all these provisions should be given effect. The thrust of the Act is to retain state authority over intrastate services and intrastate issues. MECA disagrees with the Commission's tentative conclusion that it should establish pricing principles. Pricing should be based primarily on negotiation (which is consistent with "competition") and secondarily on state application of TSLRIC cost floor. Having cost manuals to uniformly develop prices is contradictory to a free market system and competition. We agree that the use of cost manuals that jurisdictionally separate costs may be becoming outmoded. However, while implicit universal service support for small LECs is built into Part 69 access rules, the Commission should be very careful not to make any ruling that would undermine that goal by giving incentives for arbitrage. Parts 36, 64, and 69 rules

should remain unchanged for toll access charge development until the entire toll access charge system can be reformed. The Commission should defer to the states generally regarding pricing when those states have no barriers to local competition and those states are addressing cost and pricing issues. The Commission's role is to set very minimum standards and to ensure that there are no barriers to competition. The Act should not be interpreted in a manner that would have this Commission usurp state authority over what are generally intrastate issues. While there is a national policy supporting competition in the local exchange market, that policy can be fully implemented by the states.

(2) Statutory Language.

No comments.

(3) Rate Levels.

In **paragraph 123**, the Commission discusses rate levels and seeks comment regarding the requirements that rates be based on cost and that rates be non-discriminatory, and the statutory indication that rates may include a reasonable profit. The Commission tentatively concludes that the statutory language

precludes states from setting rates by use of traditional cost-of-service regulation and, instead, appears to contemplate the use of other forms of cost-based price regulation, such as price cap regulation or long run incremental cost methodologies.

The Commission does not need to enact rules in this regard since the states are well aware of pricing issues and many have already acted to adopt costing methodologies that seem more appropriate in a competitive environment. Michigan eliminated direct rate of return regulation in 1992 when it enacted the initial version of the Michigan Telecommunications Act. Since this State and others are already complying with the Federal Act, the Commission should simply monitor those who have not progressed this far and ensure that they stay on the correct course.

Moreover, while the use of imbedded costs may no longer be appropriate, this does not mean that LECs should not be able to recover their shared and common costs. In fact, in order to avoid an unconstitutional taking of their property without just compensation, any pricing methodology must account for shared and common costs and provide a reasonable profit.

With regard to price caps, this type of methodology cannot work for small LECs. It may work for large RBOCs such as the merged NYNEX and Bell

Atlantic LEC with a combined work force of 127,500; however, it is simply impractical for small LECs who may have fewer than 10 employees and who have no corporate condominiums to cut back. There is little room for work force reductions and other belt-tightening measures.

In **paragraphs 124 through 125**, the Commission requests comment regarding whether it should adopt a LRIC-based price methodology or, alternatively, establish boundaries and leave a range of flexibility to the states. MECA encourages the Commission to defer to the states. The Michigan Legislature recently adopted the Michigan Telecommunications Act which utilizes TSLRIC as a cost floor for regulated services. See MCL 484.2321 and MCL 484.2352. Michigan's elected officials have decided that this is the best methodology for use in Michigan. Furthermore, the Michigan Public Service Commission has already developed a TSLRIC cost manual. Therefore, this decision should be given deference since it is clearly a workable and reasonable methodology and is not contrary to the Federal Act.

(a) LRIC-Based Pricing Methodology.

In **paragraphs 126 through 127**, the Commission seeks comments regarding LRIC-based pricing methodologies and seeks input regarding pricing

definitions and state methodologies. MECA notes that Michigan has adopted a TSLRIC cost manual and that the Michigan Telecommunications Act's TSLRIC price floor methodology is consistent with the Federal Act.

In **paragraph 129 through 130**, the Commission seeks comments regarding shared and common costs and methods to "reduce" those costs. The inquiry appears to be based on a misconception regarding telephone companies and their right to earn a profit on their investment. It astounds MECA that there is even a suggestion that private enterprises should not have an opportunity to recover a profit on their investment. Local exchange carriers have made investments and taken risks over the course of many decades. The oldest telephone company in Michigan, a small rural LEC that is a member of MECA, has provided service for over 100 years. In doing so, it clearly assumed investment risk. Now such companies face even greater risks because the local market is open to competition. It is offensive to the Constitution and the American spirit to even consider limiting a company's opportunity to earn a profit.

For small LECs, their two main sources of revenue are local service revenues and toll access service revenues. Lacking toll revenues and a vast array of enhanced service revenues, these companies must be allowed to recover their common and overhead costs in the pricing of basic local exchange interconnection.

It is ridiculous to attempt to establish an arbitrary rule to limit common and overhead costs. Only the market can regulate these costs--regulation cannot. Unequal fixed allocation procedures, such as the "Ramsey Rule," cannot apply in the long term when competition will control and the market place will determine how common costs and overheads will be distributed among services. Unequal fixed allocation procedures are not appropriate in the short term since proportionate contribution from all services helps avoid arbitrage opportunities and is simple to administer. Unequal contributions further cause subsidies between carriers and/or services which are contrary to the move to a competitive market place.

In **paragraph 132**, the Commission seeks comment regarding a transitional pricing mechanism such as "short-run marginal costs." There is no need to engage in this type of micro-management. Short-term cost studies are